

## ADDENDUM REPORT – IDAP

<b>Property:</b>	21-25 Roberts Road GREENACRE PLT 29 and PLT 30 in DP 14955 DA2021/40
<b>Proposal:</b>	Additions and alterations to an existing factory unit for change of use to a restaurant/café and associated business identification signage.
<b>Applicant:</b>	Ikleen Services
<b>Owner:</b>	Armada Pty Ltd
<b>Date of lodgement:</b>	4 March 2021
<b>Notification period:</b>	19 March to 2 April 2021
<b>Submissions received:</b>	Nil (0)
<b>Assessment officer:</b>	M Rivera
<b>Estimated cost of works:</b>	\$490,000.00
<b>Zoning:</b>	B7 – Business Park - SLEP 2012
<b>Heritage:</b>	No
<b>Flood affected:</b>	No
<b>Is a Clause 4.6 Variation Proposed:</b>	No
<b>RECOMMENDATION OF OFFICER:</b>	<b>APPROVAL</b>



**Figure 1:** Locality Plan showing subject site (outlined in yellow) and surrounding context.

## EXECUTIVE SUMMARY

### Proposal

Development consent is being sought for additions and alterations to an existing factory unit for change of use to a restaurant/café and associated business identification signage.

### Background

The application was considered by the Internal Development Assessment Panel (IDAP) on 4 June 2021. At this meeting the panel resolved to defer the application to ensure the following matters are sufficiently addressed:

*That the IDAP defers the application in order to review the parking layout and justification, apply the Section 7.11 contributions, to clarify the use of the upstairs rooms and to review conditions from the NSW Police.*

### Strathfield Local Environmental Plan

The site is zoned B7 – Business Park under the provisions of Strathfield Local Environmental Plan 2012 (SLEP 2012) and the proposal is a permissible form of development with Council's consent. The proposal (as amended) satisfies all relevant objectives contained within the SLEP 2012.

### Development Control Plan

The proposed development as amended generally satisfies the provisions of Strathfield Consolidated Development Control Plan 2005 (SCDCP 2005). This is discussed in more detail in the body of the report.

### Notification

The amendments to the application to satisfy the issues raised by IDAP did not require re-notification.

### Conclusion

The Applicant submitted amended plans to Council in response to the matters raised above. The addendum report provides confirmation that the deferred matter has been appropriately resolved through these revised plans.

Accordingly, having regards to the heads of consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, Development Application 2021/40 is recommended for approval subject to suitable conditions of consent.

## ADDENDUM REPORT

### Proposal

Council has received an application for the additions and alterations to an existing factory unit for change of use to a restaurant/café and associated business identification signage.

### Background

This report is to be read as an addendum to the report presented to IDAP on 4 June 2021. The subject application was deferred by the panel at this meeting. A review of information and resolutions determined by the Assessing Officer have now been submitted to clarify and address the matters raised by the panel.

### Referrals – Internal and External

Council's Traffic Manager was verbally consulted on 11 and 15 June 2021.

### Assessment

#### **Matters Raised By IDAP**

The subject application was deferred by the panel at this meeting for the following reasons:

1. Section 7.11 contributions apply and the consent should be amended accordingly.
2. Car space 1 does not have enough swing room.
3. Only one (1) car space should be restricted to disabled parking.
4. The consent must ensure that the first floor is not used for restaurant/functions or the service of food.
5. Parking provision requirement must be re-calculated to reflect gross floor area.
6. Condition 7 should be incorporated into Condition 37.
7. Condition 8 needs to be more specific and enforceable.

Resolutions have now been submitted to clarify and address the matters raised by the IDAP. More specifically, the details and resolutions are as follows:

1. Section 7.11 contributions apply and the consent should be amended accordingly.

**Assessing Officer's Comments:** It is agreed that the Section 7.11 contributions apply based on the additional GFA of 104.8m<sup>2</sup> proposed. Based on the additional GFA the Section 7.11 contributions for the proposed development, in accordance with the Strathfield Direct Development Contributions Plan 2010-2030 are as follows:

Provision of Community Facilities	\$0
Provision of Major Open Space	\$22,849.68
Provision of Local Open Space	\$5,026.93
Provision Roads and traffic Management	\$0
Administration	\$456.99
<b>TOTAL</b>	<b>\$28,833.60</b>

A summary of the above calculation is contained in the table below.

Condition 10 will be amended to reflect the above calculation and include the correct Local Infrastructure Contributions.

PRECINCT 9 - S94 CALCULATIONS							
Bedroom size	Number of dwellings	Roads and Traffic	LOS	MOS	Community	Admin	
Detached Dwelling / Single Allotment	0	0.00	0.00	0.00	0.00	0.00	
Secondary Dwelling	0	0.00	0.00	0.00	0.00	0.00	
Boarding Room - Single	0	0.00	0.00	0.00	0.00	0.00	
Boarding Room - Double	0	0.00	0.00	0.00	0.00	0.00	
Flats / Units							
1 bedroom or less	0	0.00	0.00	0.00	0.00	0.00	
2 bedrooms	0	0.00	0.00	0.00	0.00	0.00	
3 bedrooms	0	0.00	0.00	0.00	0.00	0.00	
4 bedrooms plus	0	0.00	0.00	0.00	0.00	0.00	
Townhouse/Villas/Dual Occupancy							
1 bedroom or less	0	0.00	0.00	0.00	0.00	0.00	
2 bedrooms	0	0.00	0.00	0.00	0.00	0.00	
3 bedrooms	0	0.00	0.00	0.00	0.00	0.00	
4 bedrooms plus	0	0.00	0.00	0.00	0.00	0.00	
<b>Residential Total</b>		<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
Industrial	per m2						
	0	0.00	0.00	0.00	0.00	0.00	
Retail	per m2						
	0	0.00	0.00	0.00	0.00	0.00	
Commercial	per m2						
	104.8	0.00	5026.93	22849.68	0.00	456.99	
Tourism	Number of rooms						
	0	0.00	0.00	0.00	0.00	0.00	
<b>Non Residential Total</b>		<b>0.00</b>	<b>5026.93</b>	<b>22849.68</b>	<b>0.00</b>	<b>456.99</b>	<b>28333.60</b>
<b>TOTAL S94</b>		<b>0.00</b>	<b>5026.93</b>	<b>22849.68</b>	<b>0.00</b>	<b>456.99</b>	<b>28333.60</b>

2. Car space 1 does not have enough swing room.

**Assessing Officer's Comments:** A verbal discussion with Council's Traffic Manager confirmed that because the space is for the Manager of the restaurant/café – the lack of swing room appears acceptable. Notwithstanding this, Council's Traffic Manager advised that the parking spaces can be modified accordingly.

Condition 9 (design change condition) is amended to incorporate a requirement to re-arrange the parking spaces.

3. Only one (1) car space should be restricted to disabled parking.

**Assessing Officer's Comments:** A verbal discussion with Council's Traffic Manager confirmed that a design change condition can be imposed to convert one (1) of the accessible spaces and the Manager's parking space into two (2) standard sized parking spaces that can be used by any staff/patrons. Condition 9 (design change condition) is amended to reflect the above changes to parking.

4. The consent must ensure that the first floor is not used for restaurant/functions or the service of food.

**Assessing Officer's Comments:** Agreed – the consent is amended to reflect the above.

5. Parking provision requirement must be re-calculated to reflect gross floor area.

**Assessing Officer's Comments:** A verbal discussion with Council's Traffic Manager confirmed that the shortfall of nine (9) spaces is still an acceptable outcome, in context of the

use and of the surrounding land uses. In fact, the outcome will create a more pedestrian friendly area that activates the streetscape – making the area safer with increased passive surveillance.

The increased parking demand is related primarily to the change of use to a restaurant/café and not the physical changes proposed for the existing factory building. The change of use to a restaurant/café triggers the requirement to provide one (1) space per 40m<sup>2</sup> of GFA compared to one (1) space per 55m<sup>2</sup> of GFA if the factory/industry use was retained.

It is noted that the proposed additions and alterations are wholly contained within the existing building. There is no change to the building footprint and the proposed parking spaces are contained within the only existing open area that is not occupied by the building or within the front setback addressing Roberts Road. In order to provide additional parking spaces, the existing building and its footprint would need to be adjusted/partly demolished. In this instance, the proposal results in a conservatively sized building that it is well below the maximum building height (14m) and floor space ratio (1.5:1) provisions under the Strathfield Local Environmental Plan 2012 (SLEP 2012) and a lack of parking spaces is considered reasonable and acceptable given the necessary changes required to achieve compliance. Further, the re-use of a building without generating a large amount of demolition waste, is considered a desirable outcome and significant improvement for the streetscape and locality.

Lastly and as mentioned in the IDAP report, Council's Traffic Manager advised that there is ample parking within the street that would support the proposed restaurant/café. In light of the above considerations, the shortfall in parking of nine (9) spaces is supportable and acceptable in this instance.

6. Condition 7 should be incorporated into Condition 37.

**Assessing Officer's Comments:** Agreed – the condition will be incorporated in Condition 39.

Condition 7 is deleted completely and incorporated into Condition 39.

Condition 39 amended to read as follows (words in bold and italic are additional):

**37. Hours of Operation (*Restaurant/Café – non-licensed premises*)**

The approved hours of operation shall be restricted to the following:

- 5am to 1am, Monday to Sunday (including public holidays)

***This consent does not grant approval for the use of the premises as a licensed premises/venue/restaurant. In the event that the operator applies for a liquor licence to NSW Police, a modification application is required to modify this consent to reflect the licenced premises component.***

***The entire first floor must not be used for restaurant/café functions or the service of food.***

7. Condition 8 needs to be more specific and enforceable.

**Assessing Officer's Comments:** Agreed – the condition will be modified to be more specific and enforceable. Condition 8 was created in error and should be incorporated as part of Condition 6 – NSW Police conditions.

Condition 8 is deleted completely and incorporated into Condition 6.



Condition 6 amended to read as follows (words in bold and italic are additional):

## 6. NSW Police

The following conditions are endorsed by NSW Police and must be considered and incorporated into the final design and ongoing operations of the approved development:

### CCTV

1) The consent holder must maintain a closed-circuit television system on the premises in accordance with the following requirements:

- a) the system must record continuously from opening time until one hour after the premises are required to close (or, in the case of premises that are not required to cease trading, continuously at all times),
- b) recordings must be in digital format and at a minimum of 15 frames per second,
- c) any recorded image must specify the time and date of the recorded image,
- d) the system's cameras must cover the following areas:
  - i) all entry and exit points on the premises,
  - ii) the footpath immediately adjacent to the premises,
  - iii) all publicly accessible areas (other than toilets) on the premises.

2) The consent holder must also:

- a) keep all recordings made by the CCTV system for at least 30 days, and
- b) ensure that the system is accessible by at least one member of staff at all times it is in operation, and provide any recordings made by the system to a police officer or inspector within 24 hours of any request by a police officer or inspector to provide such recordings.

### ONSITE SECURITY

***At least one (1) security officer must be rostered from 11pm until close of business on the following days:***

- ***Fridays, Saturdays, Sundays, Public Holidays***

Important note: It is noted that the condition numbers in the consent will change as a consequence of deleting Conditions 7 and 8.

### Strathfield Local Environmental Plan

It is considered that the proposed development as amended satisfies the aims, objectives and development standards, where relevant, of the SLEP 2012.

***(ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and***

There are no draft planning instruments that are applicable to this site.

***(iii) any development control plan,***

The proposed restaurant/café, which features a GFA of 511.2m<sup>2</sup>, is required to have thirteen (13) parking spaces under Part I of the SCDP 2005. The required amount was incorrectly described in the respective IDAP report as nine (9) spaces. Notwithstanding this, the shortfall is adequately justified and on balance, is considered a supportable and acceptable variation that demonstrates sufficient planning merit. This has been detailed above.

Aside from the parking requirement, the proposed amendments to the development do not result in any changes to the DCP assessment of the original application.

- (iv) ***Any matters prescribed by the regulations, that apply to the land to which the development application relates,***

The amendments do not impact on the original assessment of this provision.

- (a) ***the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,***

The amendments do not impact on the original assessment of this provision.

- (c) ***the suitability of the site for the development,***

The amendments do not impact on the original assessment of this provision.

- (d) ***any submissions made in accordance with this Act or the regulations,***

In accordance with the provisions of Strathfield Council's Community Participation Plan, the amendments to the application were not placed on neighbour notification.

- (e) ***the public interest.***

The amendments do not impact on the original assessment of this provision.

### **Local Infrastructure Contributions**

Local Infrastructure Contributions apply – please see above.

### **Conclusion**

The application as amended has been assessed having regard to the Heads of Consideration under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, the provisions of the SLEP 2012 and SCDCP 2005.

Following detailed assessment of these changes, it is considered that Development Application No. 2021/40 should be approved subject to following conditions being added to, modified or deleted draft consent originally present to IDAP on:



**Signed:**  
**Miguel Rivera**  
**Senior Planner**

**Date: 15 June 2021**

- ☒ I confirm that I have determined the abovementioned development application with the delegations assigned to my position;

- ☒ I have reviewed the details of this development application and I also certify that Section 7.11/7.12 Contributions are applicable to this development and have been levied accordingly;

Report and recommendations have been peer reviewed and concurred with.

**Signed:**  
**Patrick Santos**  
**Planner**

**Date: 15 June 2021**

The proposal be approved subject to following consent conditions (as amended to reflect the resolutions put forward in this Addendum Report):

### REASONS FOR CONDITIONS

The following conditions of consent are imposed for the following reasons:

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instrument and/or Building Code of Australia and/or Council's codes, policies and specifications.
- (b) To protect the environment.
- (c) To ensure that there is no unacceptable impact on the amenity of the area, or to private and public property.
- (d) It is in the public interest.

### DEVELOPMENT DETAILS

#### 1. Approved Plans & Documentation

The development must be implemented in accordance with the approved plans and supporting documentation listed below which have been endorsed by Council's approved stamp, except where marked up on the plans and/or amended by conditions of this consent:

Description	Reference No.	Date	Revision	Prepared by
Locality Plan	1	23/10/20	A	Hakim & Hamzah
Site Plan	3	23/10/20	A	Hakim & Hamzah
Ground Floor Plan (Existing)	4	23/10/20	A	Hakim & Hamzah
Roof Plan (Existing)	5	23/10/20	A	Hakim & Hamzah
Roof Plan (Demolition)	7	23/10/20	A	Hakim & Hamzah



Ground Floor Plan	8	22/05/21	B	Hakim & Hamzah
First Floor Plan	9	23/10/20	A	Hakim & Hamzah
Roof Plan (Proposed)	10	23/10/20	A	Hakim & Hamzah
South Elevation	11	23/10/20	A	Hakim & Hamzah
North Elevation	12	23/10/20	A	Hakim & Hamzah
East Elevation	13	23/10/20	A	Hakim & Hamzah
West Elevation	14	23/10/20	A	Hakim & Hamzah
Section X-X Section Y-Y	14	23/10/20	A	Hakim & Hamzah
Schedule of Finishes	15	23/10/20	A	Hakim & Hamzah
Soil and Water Management Plan	16	23/10/20	A	Hakim & Hamzah
Stormwater Plan	SW-01	27/12/20	A	Transcivic Engineering
Stormwater Details	SW-02	27/12/20	A	Transcivic Engineering
Stormwater Plan	SW-03	27/12/20	A	Transcivic Engineering
Waste Management Plan	-	26/12/20	-	IKleen Services Pty Ltd
Acoustic Report	-	03/12/20	R01D	Acoustic Works
Traffic and Parking Assessment	-	02/12/20	2	Park Transit

## SEPARATE APPROVALS REQUIRED UNDER OTHER LEGISLATION

### 2. Section 138 Roads Act 1993 and Section 68 Local Government Act 1993

Unless otherwise specified by a condition of this consent, this Development Consent does not give any approval to undertake works on public infrastructure.

Separate approval is required under Section 138 of the [Roads Act 1993](#) and/or Section 68 of the [Local Government Act 1993](#) for any of the following activities carried out in, on or over a public road (including the footpath) listed below.

An application is required to be lodged and approved prior to the commencement of any of the following works or activities;

- (a) Placing or storing materials or equipment;
- (b) Placing or storing waste containers or skip bins;
- (c) Erecting a structure or carrying out work
- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (e) Pumping concrete from a public road;
- (f) Pumping water from the site into the public road;
- (g) Constructing a vehicular crossing or footpath;
- (h) Establishing a “works zone”;
- (i) Digging up or disturbing the surface of a public road (e.g. Opening the road for the purpose of connections to utility providers);
- (j) Stormwater & ancillary works in the road reserve; and
- (k) Stormwater & ancillary to public infrastructure on private land
- (l) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council’s roadways/footways.

These separate activity approvals must be obtained and evidence of the approval provided to the Certifying Authority prior to the issue of the Construction Certificate.

The relevant Application Forms for these activities can be downloaded from Council’s website [www.strathfield.nsw.gov.au](http://www.strathfield.nsw.gov.au). For further information, please contact Council’s Customer Service Centre on (02) 9748 9999.

### 3. Vehicular Crossing - Minor Development

Constructing a vehicular crossing and/or footpath requires a separate approval under Section 138 of the [Roads Act 1993](#) prior to the commencement of those works.

To apply for approval, complete the *Works Permit Application Form* which can be downloaded from Strathfield Council’s Website at [www.strathfield.nsw.gov.au](http://www.strathfield.nsw.gov.au). Lodge the application form,

together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Civic & Urban Services Section in Council's adopted *Fees and Charges* for the administrative and inspection charges associated with *Works Permit* applications.

An approval for a new or modified vehicular crossing will contain the approved access and/or alignment levels which will be required to construct the crossing and/or footpath. Once approved, all work shall be carried out in accordance with Council's specifications applicable at the time, prior to the issue of an Occupation Certificate.

#### 4. **Building – Hoarding Application**

Prior to demolition of the buildings on the site, or the commencement of work above ground level, a separate application for the erection of an 'A class' (fence type) or a 'B class' (overhead type) hoarding or 'C type' scaffold, in accordance with the requirements of SafeWork NSW, must be erected along that portion of the footways/roadway where the building is within 3 metres of the street boundary.

An application for this work under Section 68 of the [Local Government Act 1993](#) and the Roads Act 1993 must be submitted for approval to Council.

The following information is to be submitted with a Hoarding Application under Section 68 of the [Local Government Act 1993](#) and Section 138 of the [Roads Act 1993](#):

- (a) A site and location plan of the hoarding with detailed elevation, dimensions, setbacks, heights, entry and exit points to/from the site, vehicle access points, location of public utilities, electrical overhead wire protection, site management plan and builders sheds location; and
- (b) Hoarding plan and details that are certified by an appropriately qualified engineer; and
- (c) The payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges (available at [www.strathfield.nsw.gov.au](http://www.strathfield.nsw.gov.au)) before the commencement of work; and
- (d) A Public Risk Insurance Policy with a minimum cover of \$20 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained a copy provided to Council. The Policy is to note Council as an interested party.

### **REQUIREMENTS OF CONCURRENCE, INTEGRATED & OTHER GOVERNMENT AUTHORITIES**

#### 5. **Transport for NSW**

The following condition must be considered and incorporated into final design of the approved development:

1. All buildings and structures including signage together with any improvements integral to the future use of the site are wholly within the freehold property unlimited in height or depth along the Roberts Road boundary.

Should you have any further inquiries in relation to this matter, please do not hesitate to contact Hans Pilly Mootanah, Land Use Planner, on telephone 8849 2076 or by email at [development.sydney@transport.nsw.gov.au](mailto:development.sydney@transport.nsw.gov.au).

## 6. **NSW Police**

The following conditions are endorsed by NSW Police and must be considered and incorporated into the final design and ongoing operations of the approved development:

### **CCTV**

1) The consent holder must maintain a closed-circuit television system on the premises in accordance with the following requirements:

- a) the system must record continuously from opening time until one hour after the premises are required to close (or, in the case of premises that are not required to cease trading, continuously at all times),
- b) recordings must be in digital format and at a minimum of 15 frames per second,
- c) any recorded image must specify the time and date of the recorded image,
- d) the system's cameras must cover the following areas:
  - i) all entry and exit points on the premises,
  - ii) the footpath immediately adjacent to the premises,
  - iii) all publicly accessible areas (other than toilets) on the premises.

2) The consent holder must also:

- a) keep all recordings made by the CCTV system for at least 30 days, and
- b) ensure that the system is accessible by at least one member of staff at all times it is in operation, and provide any recordings made by the system to a police officer or inspector within 24 hours of any request by a police officer or inspector to provide such recordings.

### **ONSITE SECURITY**

At least one (1) security officer must be rostered from 11pm until close of business on the following days:

- Fridays, Saturdays, Sundays and Public Holidays

## 7. **Sydney Water – Tap in™**

The approved plans must be submitted to a Sydney Water Tap in™ to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to 'Plumbing, building and developing' section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then see 'Building', or telephone 13000 TAP IN (1300 082 746). The Certifying Authority must ensure that a Tap in™ agent has appropriately stamped the plans prior to the issue of the Construction Certificate.

### **PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

## 8. **Fees to be Paid**

The fees listed in the table below must be paid in accordance with the conditions of this consent and Council's adopted Fees and Charges applicable at the time of payment (available at [www.strathfield.nsw.gov.au](http://www.strathfield.nsw.gov.au)).

Payments must be made prior to the issue of the Construction Certificate or prior to the commencement of work (if there is no associated Construction Certificate).

Please contact council prior to the payment of s7.11 or s7.12 Contributions to determine whether the amounts have been indexed from that indicated below in this consent and the form of payment that will be accepted by Council.

A summary of the fees to be paid are listed below:

Fee Type	Fee
<b>GENERAL FEES</b>	
Long Service Levy (to Long Service Corporation)  Or, provide evidence of Payment direct to the Long Service Corporation. See <a href="https://portal.longservice.nsw.gov.au/bci/levy/">https://portal.longservice.nsw.gov.au/bci/levy/</a>	\$1,715.00
Security Damage Deposit	\$8,100.00
Administration Fee for Damage Deposit	\$127.00
<b>DEVELOPMENT CONTRIBUTIONS</b>	
Provision of Community Facilities	\$0
Provision of Major Open Space	\$22,849.68
Provision of Local Open Space	\$5,026.93
Roads and Traffic Management	\$0
Administration	\$456.99

### **General Fees**

The fees and charges above are subject to change and are as set out in the version of Council's Schedule of Fees and Charges or as required by other Government Authorities, applicable at the time of payment.

### **Development Contributions**

A Section 7.12 contribution has been levied on the subject development pursuant to the Strathfield Section 94A Indirect Development Contributions Plan.

#### Indexation

The above contributions will be adjusted at the time of payment to reflect changes in the cost of delivering public amenities and public services, in accordance with the indices provided by the relevant Development Contributions Plan.

#### Timing of Payment

The contribution must be paid and receipted by Council prior to the release of the Construction Certificate.

#### Further Information

A copy of the *current Development Contributions Plans* may be inspected at Council's Customer Service Centre at 65 Homebush Road, Strathfield or on Council's website [www.strathfield.nsw.gov.au](http://www.strathfield.nsw.gov.au).

### 9. **Required Design Changes**

The following changes are required to be made and shown on the Construction Certificate plans:

Waste Bins	Any references to Council bins and Council pick-up or collection of waste on all approved plans and documents must be deleted.
Access for Persons with Disability	Disabled access must be provided for the first floor of the approved development. This access must comply with the relevant requirements under the Building Code of Australia.
Parking Area	<p>The parking spaces are to be modified/amended as per the annotations in the approved Proposed Ground Floor Plan.</p> <p>One (1) of the accessible parking spaces must be deleted completely.</p> <p>The Manager's space must be deleted completely to ensure this space is able to be used for parking by any staff/patrons.</p> <p>A landscaping strip (measured 1m in width min.) with screen planting must be provided adjacent to the outdoor dining area – as annotated.</p>

### 10. **Damage Deposit – Minor Works**

In order to insure against damage to Council property the following is required:

- (a) Pay Council, before the issue of the Construction Certificate, a damage security deposit for the cost of making good any damage caused to any Council property as a result of the development: \$8,100.00.
- (b) Pay Council, before the issue of the Construction Certificate, a non-refundable administration fee to enable assessment of any damage and repairs where required: \$127.00.
- (c) Submit to Council, before the commencement of work, a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

At the completion of work Council will inspect the public works, and the damage deposit will be refunded in full upon completion of work where no damage occurs. Otherwise the amount



will be either forfeited or partly refunded according to the amount of damage.

#### 11. **Erosion & Sedimentation Control**

Erosion and sediment controls must be provided to ensure:

- (a) Compliance with the approved Erosion & Sediment Control Plan
- (b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
- (c) All clean water run-off is diverted around cleared or exposed areas
- (d) Silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways
- (e) All erosion and sediment controls are fully maintained for the duration of demolition, excavation and/or development works
- (f) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway
- (g) All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
- (h) Compliance with [Managing Urban Stormwater – Soils and Construction \(Blue Book\) produced by Landcom 2004.](#)

These measures are to be implemented prior to the commencement of work (including demolition and excavation) and must remain until works are completed and all exposed surfaces are landscaped/sealed.

#### 12. **Stormwater System**

The submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system in accordance with Council stormwater management code and AS/NZS 3500.3: 2015 (as amended), prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.

#### 13. **On Site Detention**

The submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.

An on-site detention (OSD) facility designed by a professional engineer who specialises in Hydraulic Engineering must be designed, approved and installed. The design must include the computations of the inlet and outlet hydrographs and stage/storage relationships of the proposed OSD using the following design parameters:

- (a) peak flow rates from the site are to be restricted to a permissible site discharge (PSD) equivalent to the discharge when assuming the site contained a single dwelling, garage, lawn and garden,
- (b) at Annual Recurrence Intervals of 2 years, 10 years and 100 years.

The OSD facility shall be designed to meet all legislated safety requirements and childproof safety fencing around the facility must be provided where the OSD facility is open or above ground when the design peak storage depth is greater than 300mm. A durable metal plate or similar sign is to be placed at the OSD facility and must bear the words:

***"BEWARE: This is an on-site detention basin/tank for rainwater which could overflow during heavy storms."***

Full details shall accompany the application for the Construction Certificate.

#### 14. **Driveway Surface Waters**

For driveways on private property sloping to the street and greater than 10 metres in length, drainage control devices such as humps or grated surface inlet pits shall be installed at the front boundary in order to control excess stormwater flowing across Council's footpath.

#### 15. **Off Street Parking – Compliance with AS2890**

All driveways, access ramps, vehicular crossings and car parking spaces shall be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1 (for car parking facilities), AS 2890.6 (parking for people with disabilities) and AS 2890.2 (for commercial vehicle facilities).

#### 16. **Food Premises**

The following information shall be provided and shown on the Construction Certificate Plans

##### **(a) Plans and Specifications**

Details of the construction and fit out of food premises must be submitted to Council's Environmental Health Officer. The plans and specifications must demonstrate compliance with the:

- i. [Food Act 2003](#) (as amended)
- ii. [Food Regulation 2015](#) (as amended)
- iii. Food Standards Code as published by Food Standards Australia
- iv. New Zealand and Australian Standard AS4674:2004 Design, Construction and fit out of food premises (as amended)
- v. Sydney Water – trade Waste Section.

Environmental Health Officers' must advise in writing that the plans and specification are considered satisfactory prior to the issue of any Construction Certificate.

##### **(b) Litter Control**

Ensure that the area of public footpath or public area adjacent to the premises is maintained in a clean and tidy condition. Litter management plan must be included in Waste Management Plan when applicable, indicating all steps being taken to prevent, reduce and collect any litter produced by the site as well as measures to conduct litter collection within a 50m radius from premises entrance or exit.

#### 17. **Onsite Waste Collection**

Development for the purposes of multi-unit housing, residential flat buildings, serviced apartments, boarding houses, mixed use and commercial developments must provide onsite underground or at-grade collection of waste, which must comply with the requirements contained within Part H of Strathfield Development Control Plan 2005 (DCP 2005).

Waste servicing and collection arrangements should be clearly depicted and annotated on architectural drawings, which should indicate adequate turning circles to allow collection vehicles to enter and exit the site in a forward direction.

#### 18. Commercial and Industrial Waste

Appropriate waste and recycling containers and facilities will need to be provided according to Waste Management Plan for all specific end use businesses in accordance with the waste generation rates provided at Part H of Strathfield Council DCP 2005 – Appendix B.

WMP should also provide written evidence of valid contracts for the regular collection and disposal of waste and recyclables generated on the site. The private waste contractor must confirm the frequency of the waste collections (general waste, recycling and bulky goods), and that the size and location of the storage room is suitable for the frequency of the waste collections.

The collection of commercial and industrial waste and recycling must only occur between 6.00am and 8.00pm weekdays and 9.00am and 5.00pm on weekends and public holidays, to avoid noise disruption to the surrounding area. All garbage and recyclable matter must be enclosed in the waste bins with lids completely closed at all times.

Waste education must be provided through signs in common areas indicating how to avoid, reduce, reuse and recycle waste.

Note: Refer to the EPA's [Better Practice Guidelines for Waste Management and Recycling in Commercial and Industrial Facilities](#)

### **PRIOR TO THE COMMENCEMENT OF WORK (INCLUDING DEMOLITION & EXCAVATION)**

#### 19. Demolition & Asbestos

The demolition work shall comply with the provisions of Australian Standard AS2601:2001 – Demolition of Structures, NSW [Work Health & Safety Act 2011](#) and the NSW [Work Health & Safety Regulation 2011](#). The work plans required by AS2601:2001 shall be accompanied by a written statement by a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the safety statement shall be submitted to the PCA prior to the commencement of works.

For demolition work which involves the removal of asbestos, the asbestos removal work must be carried out by a licensed asbestos removalist who is licensed to carry out the work in accordance with the NSW [Work Health & Safety Act 2011](#) and the NSW [Work Health & Safety Regulation 2011](#) unless specified in the Act and/or Regulation that a license is not required.

All demolition work including the removal of asbestos, shall be undertaken in accordance with the [Demolition Code of Practice](#) (NSW Work Cover July 2015)

**Note:** Copies of the Act, Regulation and Code of Practice can be downloaded free of charge from the SafeWork NSW website: [www.SafeWork.nsw.gov.au](http://www.SafeWork.nsw.gov.au).

## 20. Demolition Notification Requirements

The following notification requirements apply to this consent:

- (a) The developer /builder must notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.
- (b) Five (5) working days prior to demolition, the developer/builder is to provide written notification to Council advising of the demolition date, details of the SafeWork licensed asbestos demolisher and the list of residents advised of the demolition.
- (c) On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a prominent visible position (from street frontage) on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.

## 21. Demolition Work Involving Asbestos Removal

Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the [Work Health and Safety Regulation 2011](#).

## 22. Dial Before You Dig

The applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Council's Engineers for their records.

## 23. Dilapidation Report on Public Land – Major Development Only

Prior to the commencement of works (including demolition and excavation), a dilapidation report must be prepared for the Council infrastructure adjoining the development site.

The report must include the following:

- i. Photographs showing the existing condition of the road pavement fronting the site,
- ii. Photographs showing the existing condition of the kerb and gutter fronting the site,
- iii. Photographs showing the existing condition of the footpath pavement fronting the site,
- iv. Photographs showing the existing condition of any retaining walls within the footway or road, and
- v. Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- vi. The full name and signature of the structural engineer.
- vii. The Dilapidation Report must be prepared by a qualified structural engineer. The report must be provided to the PCA and a copy provided to the Council.

The Dilapidation Report must be prepared by a professional engineer. The report must be

provided to the PCA and a copy provided to the Council.

The report is to be supplied in electronic format in Word or PDF. Photographs are to be in colour, digital and date stamped.

**Note:** Council will use this report to determine whether to refund the damage deposit after the completion of works.

## **DURING CONSTRUCTION**

### **24. Site Sign – Soil & Erosion Control Measures**

Prior to the commencement of works (including demolition and excavation), a durable site sign, issued by Council in conjunction with this consent, must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site up until the completion of all site and building works.

### **25. Hours of Construction for Demolition and Building Work**

Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site shall not be performed, or permitted to be performed, except between the hours of 7.00 am to 5.00 pm, Monday to Friday and 8:00am to 1:00pm on Saturdays. No work or ancillary activity is permitted on Sundays, or Public Holidays.

Where the development involves the use of jack hammers/rock breakers and the like, or other heavy machinery, such equipment may only be used between the hours of 7:00am to 5:00pm Monday to Friday only.

**Note:** A penalty infringement notice may be issued for any offence.

### **26. Ground Levels and Retaining Walls**

The ground levels of the site shall not be excavated, raised or filled, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved by Council.

## **PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE**

### **27. Vehicular Crossing - Minor Development**

The vehicular crossing and/or footpath works shall be constructed by a private contractor at the expense of the applicant, in accordance with the Works Permit Approval issued by Council's Civic & Urban Services and in accordance with Council's Driveway Specifications.

Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant and in accordance with Council's Driveway Specifications.

The work must be completed before the issue of an Occupation Certificate.

**28. Restriction to User and Positive Covenant for On-Site Detention Facility**

Prior to the issue of any Occupation Certificate, the applicant shall register a Positive Covenant and a Restriction as to User under section 88E and or section 88B of the Conveyancing Act as appropriate in favour of Council, ensuring the ongoing retention, maintenance and operation of the stormwater facility (on-site detention, pump-out, charged lines, water sensitive urban design, surface flow path, finished pavement and ground levels etc.).

Where any drainage line or service conduit is to traverse any property other than that which it serves, an appropriate easement will be required. In this case, the applicant shall register an easement no less than 1200mm wide over the proposed drainage line or service concurrently with any subdivision registration.

The wording on the 88E and or 88B Instrument is to make reference to the Council file where the Construction plans and the Work As Executed (as built), plans are held. Typical wording can be obtained from Council's Specification for the Management of Stormwater document.

**29. Maintenance Schedule – On-site Stormwater Management**

A Maintenance Schedule for the proposed on-site stormwater management measures is to be prepared and submitted to Council. The Maintenance Schedule shall outline the required maintenance works, how and when these will be done and who will be carrying out these maintenance works.

**30. Stormwater Certification of the Constructed Drainage Works (Minor)**

The constructed stormwater system shall be certified by a suitably qualified person, in accordance with Council's Stormwater Management Code, prior to the issue of any Occupation Certificate.

**31. Stormwater Drainage Works – Works As Executed**

Prior to the issue of the Occupation Certificate, stormwater drainage works are to be certified by a professional engineer specialising in hydraulic engineering, with Works-As-Executed drawings supplied to Council detailing:

- (a) Compliance with conditions of development consent relating to stormwater;
- (b) The structural adequacy of the On-Site Detention system (OSD);
- (c) That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations;
- (d) Pipe invert levels and surface levels to Australian Height Datum;
- (e) Contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

Council's Engineering Services section must advise in writing that they are satisfied with the Works-As-Executed prior to the issue of an Occupation Certificate.



### 32. **Fire Safety Certificate before Occupation or Use**

In accordance with Clause 153 of the [Environmental Planning and Assessment Regulation 2000](#), on completion of building works and prior to the issue of an Occupation Certificate, the owner must cause the issue of a Final Fire Safety Certificate in accordance with Clause 170 of the aforesaid Regulation. The Fire Safety Certificate must be in the form or to the effect of Clause 174 of the [Environmental Planning and Assessment Regulation, 2000](#). In addition, in relation to each essential fire or other safety measure implemented in the building or on the land on which the building is situated, such a Certificate is to state:

- (a) That the measure has been assessed by a person (chosen by the owner of the building) who is properly qualified to do so.
- (b) That as at the date of the assessment the measure was found to be capable of functioning at a standard not less than that required by the attached Schedule.

A copy of the certificate is to be given by the applicant to the Commissioner of Fire & Rescue NSW and a further copy is to be displayed in a frame and fixed to a wall inside the building's main entrance.

### 33. **Slip Resistance**

At completion of work an in-situ (on-site) test, in wet and dry conditions, must be carried out on the pedestrian floor surfaces used in the foyers, public corridors/hallways, stairs and ramps as well as the floor surfaces in wet rooms in any commercial/retail/residential units to ascertain the actual slip resistance of such surfaces taking into consideration the effects of grout, the gradients of the surface and changes from one material to another. The in-situ test must be carried out in accordance with AS/NZS 4663:2002. Proof of compliance must be submitted with the application for the Occupation Certificate for approval.

### 34. **Maximum Number of Seating**

A sign must be displayed in a prominent position in the building stating that the maximum number of seating for persons that are permitted in the building and outdoor seating shall not exceed the following number of patrons:

- Maximum 60 patrons in the building (indoor dining areas)
- Maximum 68 patrons in the outdoor dining areas

**Total of 128 patrons (maximum)**

The entire first floor must not be used for restaurant/café functions or the service of food.

### 35. **Food Premises – Inspection & Registration**

Prior to the issue of any Occupation Certificate or occupation or use of any food premises:

- (a) An inspection of the fit out of the Food Premises must be arranged with Council's Environmental Health Officer;
- (b) A satisfactory final inspection must have been undertaken by Council's Environmental Health Officer; and
- (c) The Food Premises must notify and register its business details with Strathfield Council as required under section 100 of the [Food Act 2003](#).

## **OPERATIONAL CONDITIONS (ON-GOING)**

### **36. Noise Control**

The use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the [Protection of the Environment Operations Act 1997](#) (as amended).

### **37. Hours of Operation (Restaurant/Café – non-licensed premises)**

The approved hours of operation shall be restricted to the following:

- 5am to 1am, Monday to Sunday (including public holidays)

This consent does not grant approval for the use of the premises as a licensed premises/venue/restaurant. In the event that the operator applies for a liquor licence to NSW Police, a modification application is required to modify this consent to reflect the licenced premises component.

The entire first floor must not be used for restaurant/café functions or the service of food.

### **38. Outdoor Lighting**

To avoid annoyance to the occupants of adjoining premises or glare to motorist on nearby roads, outdoor lighting must comply with *AS 4282-1997: Control of the obtrusive effects of outdoor lighting*.

### **39. Lighting – General Nuisance**

Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill or glare.

Flashing, moving or intermittent lights or signs are prohibited.

### **40. Amenity of the Neighbourhood**

The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.

### **41. Food Premises – Adequate Waste Receptacles (Restaurants, takeaway/cafe)**

Appropriate waste and recycling containers must be provided for waste generation rates of 0.3 to 0.6 square metres per 100 meals, plus up to 0.15 cubic metres of beverage containers per 100 meals. All waste and recycling containers shall be stored in the approved waste storage area that is large enough to store the required number of bins and must be adequately serviced by waste collection vehicles.

**42. Food Premises – Maintenance of Food Premises**

The food premises must be maintained in accordance with the [Food Act 2003](#) (as amended), [Food Regulation 2015](#) (as amended); the Food Standards Code as published by Food Standards Australia & New Zealand and Australian Standard AS 4674-2004: *Construction and fit out of food premises (as amended)*.

**43. Food Premises – Garbage Odour**

A waste contractor shall be engaged to remove all waste from the garbage storage area on a regular basis so that no overflow of rubbish will occur. Practical measures are also to be taken to ensure that odour emission from the garbage storage area does not cause offensive odour as defined under the provision of the [Protection of the Environment Operations Act, 1997](#) (as amended).

**44. Food Premises – Storage of Waste – Used Cooking Oil**

Used oil shall be contained in a leak proof container and stored in a covered and bunded area prior to off-site disposal. Copies of receipts for the disposal of used cooking oil shall be kept on-site and made available to Council Officers upon request.

**45. Loading & Unloading of Vehicles**

All loading and unloading of vehicles in relation to the use of the premises shall take place wholly within a dedicated loading dock/area.

**46. Entering & Exiting of Vehicles**

All vehicles shall enter and exit the premises in a forward direction.

**47. Schedule of Existing Fire Measures to be Maintained**

The following statutory safety measures are existing and shall be fully maintained in accordance with the approved standard and inspected annually:

- (a) Access panels, door and hoppers to fire resisting shafts - minimum standard AS 1905.1 - 2015.
- (b) Automatic fail safe devices - minimum standard Part D of BCA.
- (c) Automatic fire detection and alarm systems - minimum standard AS 1670.2015, and AS1670.3 & 4 – 2004
- (d) Automatic fire suppression systems - minimum standard AS 2118.1 – 2006.
- (e) Emergency lighting - minimum standard AS 2293.1 - 2005.
- (f) Emergency lifts - minimum standard AS 1735.1,2,11, 3, 7, 8, 12, 14, 15, and 16 (as currently applicable).
- (g) Emergency warning and intercommunication systems - minimum standard AS 4428.4 – Fire detection, warning, control and intercom systems.
- (h) Exit signs - minimum standard AS 2293.1 - 2005.
- (i) Fire control centres and rooms - minimum standard BCA.

- (j) Fire dampers - minimum standard AS 1682.1 & AS 1682.2 - 2015.
- (k) Fire doors - minimum standard AS 1905.2 - 2005.
- (l) Fire hydrant systems - minimum standard AS 2419.1 -2005.
- (m) Fire seals protecting openings in fire resisting components of the building - minimum standard Part C of BCA.1
- (n) Fire shutters - minimum standard AS 1905.2. - 2005.
- (o) Fire windows - minimum standard AS 1905.1- 2015.
- (p) Hose reel systems - minimum standard AS 2441 - 2005.
- (q) Lightweight construction - minimum standard Part C of BCA.
- (r) Mechanical air handling systems - minimum standard AS 1668.2 - 2012.
- (s) Perimeter vehicle access for emergency vehicles - minimum standard Part C of BCA.1
- (t) Portable fire extinguishers - minimum standard AS 2444 - 2001.
- (u) Safety curtains in proscenium openings - minimum standard Part H of BCA.
- (v) Smoke and heat vents - minimum standard AS 2665. - 2001.
- (w) Smoke dampers - minimum standard AS 1682.1 and 2 - 2015.
- (x) Smoke detectors and heat detectors - minimum standard AS 3786 - 2014 and AS 1670.1 - 2015.
- (y) Smoke doors - minimum standard AS 1905.1 -2015.
- (z) Solid core doors - minimum standard Part C of BCA.
- (aa) Stand-by power systems - Spec. G. 3.8 of BCA and AS 2665. - 2001.
- (bb) Wall wetting sprinkler and drencher systems - minimum standard AS 2118.2. -2010.
- (cc) Warning and operations signs - minimum standard is BCA.1

#### 48. **Annual Fire Safety Statement**

The owner of the building premises must ensure the Council is given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement must be given:

- (a) Within 12 months after the date on which the fire safety certificate was received.
- (b) Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.
- (c) An annual fire safety statement is to be given in or to the effect of Clause 181 of the [Environmental Planning and Assessment Regulation 2000](#).

- (d) A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.

## **OPERATIONAL REQUIREMENTS UNDER THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979**

### **49. Requirement for a Construction Certificate**

The erection of a building must not commence until a Construction Certificate has been issued.

### **50. Appointment of a PCA**

The erection of a building must not commence until the applicant has:

- (a) appointed a PCA for the building work; and
- (b) if relevant, advised the PCA that the work will be undertaken as an Owner -Builder.

If the work is not going to be undertaken by an Owner - Builder, the applicant must:

- (c) appoint a Principal Contractor to undertake the building work. If residential building work (within the meaning of the [Home Building Act 1989](#)) is to be undertaken, the Principal Contractor must be a holder of a contractor licence; and
- (d) notify the PCA of the details of any such appointment; and
- (e) notify the Principal Contractor of any critical stage inspections or other inspections that are required to be carried out in respect of the building work.

### **51. Notification of Critical Stage Inspections**

No later than two days before the building work commences, the PCA must notify:

- (a) the consent authority and the Council (if not the consent authority) of his or her appointment; and
- (b) the applicant of the critical stage inspections and other inspections that are to be carried out with respect to the building work.

### **52. Notice of Commencement**

The applicant must give at least two days notice to the Council and the PCA of their intention to commence the erection of a building.

### **53. Critical Stage Inspections**

The last critical stage inspection must be undertaken by the PCA. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 162A of the [Environmental Planning and Assessment Regulation 2000](#).

**54. Notice to be Given Prior to Critical Stage Inspections**

The principal contractor for a building site, or the owner-builder, must notify the PCA at least 48 hours before each required inspection needs to be carried out.

**55. Occupation Certificate**

A person must not commence occupation or use of the whole or any part of a new building unless an Occupation Certificate has been issued in relation to the building or part.

**PRESCRIBED CONDITIONS**

**56. Clause 98 – Building Code of Australia & Home Building Act 1989**

Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the [Home Building Act 1989](#) relates, there is a requirement for a contract of insurance to be in force before any work commences.

**57. Clause 98A – Erection of Signs**

Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the PCA and the Principal Contractor.

**58. Clause 98D – Erection of sign for maximum number of persons**

This prescribed condition applies to entertainment venues, function centres, pubs, registered clubs and restaurants. This condition requires the erection of a sign which states the maximum number of persons (as specified in the consent) that are permitted in the building.

**59. Clause 98E – Protection & Support of Adjoining Premises**

If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.

**60. Clause 98F – Site Excavation**

Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards. All excavations associated with the erection or demolition or building must be properly guarded and protected to prevent them from being dangerous to life or property. If the soil conditions require it, retaining walls associated with the erection or demolition of a building or other approved methods or preventing movement of the soil shall be provided and adequate provision shall be made for drainage.



## ADVISORY NOTES

### i. **Review of Determination**

Section 8.2 of the Environmental Planning and Assessment Act confers on an applicant who is dissatisfied with the determination of the application the right to lodge an application with Council for a review of such determination. Any such review must however be completed within 6 months from its determination. Should a review be contemplated sufficient time should be allowed for Council to undertake public notification and other processes involved in the review of the determination.

Note: review provisions do not apply to Complying Development, Designated Development, State Significant Development, Integrated Development or any application determined by the Sydney East Planning Panel or the Land & Environment Court.

### ii. **Appeal Rights**

Division 8.3 (Reviews and appeals) Part 8 of the Environmental Planning and Assessment Act 1979 confers on an applicant who is dissatisfied with the determination of the application a right of appeal to the Land and Environment Court of New South Wales.

### iii. **Lapsing of Consent**

This consent will lapse unless the development is physically commenced within 5 years from the Date of Operation of this consent, in accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979 as amended.

### iv. **Access to NSW Legislations (Acts, Regulations and Planning Instruments)**

NSW legislation can be accessed free of charge at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)

### v. **Long Service Levy**

The Long Service Corporation administers a scheme which provides a portable long service benefit for eligible workers in the building and construction industry in NSW. All benefits and requirements are determined by the Building and Construction Industry Long Service Payments Act 1986. More information about the scheme and the levy amount you are required to pay to satisfy a condition of your consent can be found at <http://www.longservice.nsw.gov.au>.

The required Long Service Levy payment can be direct to the Long Service Corporation via their web site <https://online.longservice.nsw.gov.au/bci/levy>. Payments can only be processed on-line for the full levy owing and where the value of work is between \$25,000 and \$6,000,000. Payments will be accepted for amounts up to \$21,000, using either MasterCard or Visa.

### vi. **Disability Discrimination Act**

This application has been assessed in accordance with the [Environmental Planning and Assessment Act 1979](#). No guarantee is given that the proposal complies with the [Disability Discrimination Act 1992](#). The applicant is responsible to ensure compliance with this and other anti-discrimination legislation. The [Disability Discrimination Act 1992](#) covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which refers to AS1428.1-Design for Access and Mobility.

### vii. **Site Safety Fencing**

Site fencing must be erected in accordance with SafeWork Guidelines, to exclude public

access to the site throughout the demolition and/or construction work, except in the case of alterations to an occupied dwelling. The fencing must be erected before the commencement of any work and maintained throughout any demolition and construction work.

A demolition licence and/or a high risk work license may be required from SafeWork NSW (see [www.SafeWork.nsw.gov.au](http://www.SafeWork.nsw.gov.au)).

#### viii. **Food Premises**

Information on Australian Standards can be obtained from [www.standards.com.au](http://www.standards.com.au)

Guidelines and Food Safety Standards may be obtained by contacting the Food Standards Australia New Zealand Authority at [foodstandards.gov.au](http://foodstandards.gov.au) or the NSW Food Authority on 1300 552 406, email: [contact@foodauthority.nsw.gov.au](mailto:contact@foodauthority.nsw.gov.au) or by visiting the website [www.foodauthority.nsw.gov.au](http://www.foodauthority.nsw.gov.au)

Notification of Food Business under Section 100 of the [Food Act 2003](#) requires the proprietor of a food business to give written notice, in the approved form, before conducting a food business. Penalties apply for failure to comply.

#### ix. **Noise**

Council will generally enforce noise related conditions in accordance with the *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the [Protection of the Environment Operations Act 1997](#).

Useful links relating to Noise:

- (a) Community Justice Centres—free mediation service provided by the NSW Government ([www.cjc.nsw.gov.au](http://www.cjc.nsw.gov.au)).
- (b) Department of Environment and Conservation NSW, Noise Policy Section web page ([www.environment.nsw.gov.au/noise](http://www.environment.nsw.gov.au/noise)).
- (c) New South Wales Government Legislation home page for access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* ([www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)).
- (d) Australian Acoustical Society—professional society of noise-related professionals ([www.acoustics.asn.au /index.php](http://www.acoustics.asn.au/index.php)).
- (e) Association of Australian Acoustical Consultants—professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au)).
- (f) Department of Gaming and Racing - ([www.dgr.nsw.gov.au](http://www.dgr.nsw.gov.au)).

#### x. **Acoustical Engineer Contacts & Reference Material**

Further information including lists of Acoustic Engineers can be obtained from:

- (a) Australian Acoustical Society—professional society of noise-related professionals ([www.acoustics.asn.au](http://www.acoustics.asn.au))
- (b) Association of Australian Acoustical Consultants—professional society of noise

related professionals ([www.aaac.org.au](http://www.aaac.org.au))

- (c) NSW Industrial Noise Policy – Office of Environment & Heritage  
([www.environment.nsw.gov.au](http://www.environment.nsw.gov.au))